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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION
[A-475-818]

Certain Pasta from Italy: Notice of Final Results of 15th Antidumping Duty Administrative Review, Final No Shipment Determination and Revocation of Order, in Part; 2010 - 2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain pasta from Italy. The period of review (POR) is July 1, 2010, through June 30, 2011. The review covers two mandatory respondents, Pastificio Attilio Mastromauro Granoro S.r.L. (Granoro), and Rummo S.p.A. Molino e Pastificio and its affiliates (Rummo), and five non-selected companies.¹ Based on our analysis of the comments received, we have made certain changes in the margin calculations from the preliminary results for Rummo and its affiliates. We have made no changes with respect to Granoro. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled “Final Results of Review.”

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Granoro) or George McMahon (Rummo), AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3692 or (202) 482-1167, respectively.

¹ The non-selected companies are: Botticelli Mediterraneo S.a.r.l. (Botticelli), Fiamma Vesuviana S.r.L. (Fiamma), Industria Alimentare Filiberto Bianconi 1947 S.p.A. (Filiberto), Pastificio Fratelli Cellino, S.r.l. (Cellino), and Pastificio Zaffiri (Zaffiri).

SUPPLEMENTARY INFORMATION:

Background

On August 3, 2012, the Department published the preliminary results of the 2010 - 2011 administrative review of the antidumping duty order on certain pasta from Italy.² On October 26, 2012, Rummo and Granoro submitted a case brief. On November 5, 2012, the petitioners submitted a rebuttal brief with respect to Rummo. On December 26, 2012, the Department issued a targeted dumping post-preliminary analysis and invited interested parties to comment.³ On January 7, 2013, Rummo filed comments regarding the Department's post-preliminary analysis. On January 10, 2013, the petitioners filed a rebuttal comments to Rummo's post-preliminary comments. We received no comments regarding the post-preliminary analysis with respect to Granoro.

Scope of the Order⁴

Imports covered by the order are shipments of certain non-egg dry pasta. The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

² See Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Administrative Review, 77 FR 46377 (August 3, 2012) (Preliminary Results).

³ See Memorandum to Lynn Fischer Fox, Deputy Assistant Secretary for Policy and Negotiations from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, titled 2010/2011 Review of the Antidumping Duty Order on Certain Pasta from Italy: Post-Preliminary Analysis (Post-Preliminary Analysis) dated December 26, 2012.

⁴ For a complete description, including the exclusions to the scope, see Preliminary Results. On October 10, 2012, the Department revised the "Scope of the Order" to recognize the EU-authorized Italian agents for purposes of the antidumping and countervailing duty orders on pasta from Italy. See Memorandum from Yasmin Nair to Susan Kuhbach, titled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy," dated October 10, 2012, which is on file in the Department's CRU. We have adopted this scope decision in this current administrative review of certain pasta from Italy.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the “Issues and Decision Memorandum for the Final Results of the 15th Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy; 2010 – 2011,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, (Issues and Decision Memorandum), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available in the Central Records Unit, main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The signed Issues and Decision Memorandum and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received for Rummo, we have recalculated Rummo’s weighted-average dumping margin. Rummo’s adjustments are discussed in detail in the accompanying final calculation memorandum.⁵ As a result of the aforementioned recalculation of Rummo’s rate and as we have excluded the de minimis rate calculated for Granoro, the

⁵ See Memorandum to the File titled “Calculation Memorandum for Rummo S.p.A. Molino e Pastificio and its affiliates (Rummo) for the Final Results of the 15th Administrative Review of Certain Pasta from Italy,” dated February 1, 2013.

weighted-average dumping margin for the three non-selected companies has changed. The de minimis rate calculated for Granoro remains unchanged from the Preliminary Results.

Petitioners' Targeted Dumping Allegation

As noted in the Preliminary Results, the petitioners asserted that the Department should use an alternative comparison method for Granoro and Rummo based on their allegations of targeted dumping.⁶ The petitioners argue the Department should conduct a targeted dumping analysis, as currently applied in antidumping investigations, and employ average-to-transaction comparisons without offsets should the Department find that the record supports its allegation of targeted dumping.⁷ The Department issued a post-preliminary analysis to address petitioners' targeted dumping allegation on December 26, 2012.⁸

As a result of the application of its targeted dumping analysis, the Department continues to find for Granoro that a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among certain purchasers, regions, and time periods exists.⁹ For Granoro, because this methodology does not yield a weighted-average dumping margin that is meaningfully different than the weighted-average dumping calculated using the average-to-transaction (A-to-T) methodology, the Department finds that the observed price differences can be taken into account by the average-to-average (A-to-A) method. For Rummo, there does not exist a pattern of export prices (or constructed export prices) for comparable merchandise that

⁶ See the petitioners' allegation of targeted dumping with respect to Granoro, dated April 20, 2012, at 1-8, and the petitioners' allegation of targeted dumping with respect to Rummo, dated April 20, 2012, at 1-8, both (citing Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33,977 (June 16, 2008) (Steel Nails), and accompanying Issues and Decision Memorandum at Comment 8; Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011) (Wood Flooring), and accompanying Issues and Decision Memorandum (IDM) at Comment 4.

⁷ See the Department's accompanying IDM at Comment 6.

⁸ See Post-Preliminary Analysis.

⁹ See the IDM at Comment 6.

differs significantly among consumers, regions, or time periods, and, thus, we have used the A-to-A method to calculate Rummo's weighted-average dumping margin on certain pasta from Italy for the POR.

Determination of No Reviewable Entries

On August 30, 2011, and September 6, 2011, Fiamma¹⁰ and Botticelli,¹¹ respectively, reported to the Department that neither company had any exports, sales or entries of subject merchandise to the United States during the POR. In the Preliminary Results, the Department issued its "Preliminary Determination of No Reviewable Entries" with respect to Fiamma and Botticelli and stated "{b}ecause "as entered" liquidation instructions do not alleviate the concerns which the Assessment Policy Notice¹² was intended to address, instead of rescinding the review with respect to Botticelli and Fiamma, we find it appropriate to complete the review and issue liquidation instructions to U.S. Customs and Border Protection (CBP) concerning entries for these companies following the final results of the review."¹³

We received no comments from interested parties regarding these companies and continue to find no reviewable entries. Accordingly, pursuant to the Assessment Policy Notice ("automatic assessment" clarification), we intend to instruct CBP to liquidate any existing entries of merchandise produced by Botticelli and Fiamma but exported by other parties at the all-others

¹⁰In its letter of August 30, 2011, Fiamma stated that "Fiamma Vesuviana hereby informs the Department of Commerce that it had no exports, sales or entries of pasta subject to the antidumping order on pasta from Italy to the United States during the period of review, July 1, 2010 through June 30, 2011."

¹¹In its letter of September 6, 2011, Botticelli stated, "Botticelli Mediterraneo further informs the Department of Commerce that it is located in Tunisia; that it produces and exports olive oil and is not involved in the production, distribution or sale of pasta in any way; and that it does not have any operations of any type in Italy."

¹²See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Automatic Assessment Clarification).

¹³See Preliminary Results at 46379.

rate.¹⁴

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period July 1, 2010, through June 30, 2011:

Manufacturer/exporter	Weighted-Average Dumping Margin (percent) ¹⁵
Rummo	5.11
Granoro	0.00
Review-Specific Average Rate ¹⁶ Applicable to the Following Companies: Filiberto, Cellino, and Zaffiri	5.11

Duty Assessment

The Department shall determine and CBP shall assess antidumping duties on all appropriate entries. For any individually examined respondents whose weighted-average dumping margin is above de minimis, we calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).¹⁷ Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above de minimis (i.e., at or above 0.5

¹⁴See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review, 75 FR 26922, 26923 (May 13, 2010), unchanged in Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review, 75 FR 56989 (September 17, 2010).

¹⁵The weighted-average dumping margins for Granoro and Rummo include an adjustment for the countervailing duty offset to account for the export subsidy portion of the countervailing duties applied to these companies, as defined in the field CVDU.

¹⁶This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, de minimis or based entirely on facts available.

¹⁷In these final results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were de minimis, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific ad valorem rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific ad valorem rate is greater than de minimis, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific ad valorem rate is greater than de minimis and we do not have reliable entered values, we calculate a per-unit assessment rate by aggregating the amount of dumping for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its “automatic assessment” regulation on May 6, 2003.¹⁸ This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see the Automatic Assessment Clarification.

¹⁸ See Automatic Assessment Clarification.

Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for companies subject to this review will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, de minimis, no cash deposit will be required; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 15.45 percent, the all-others rate established in the Section 129 determination.¹⁹ These cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that

¹⁹ See Implementation of the Findings of the WTO Panel in *US – Zeroing (EC)*: Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders, 72 FR 25261 (May 4, 2007).

reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 1, 2013.

Paul Piquado
Assistant Secretary
for Import Administration

APPENDIX I

List of Comments in the Issues and Decision Memorandum

- Comment 1: Whether the Department Should Collapse the Reported Control Numbers for Granoro
- Comment 2: Whether the Department Should Offset Transport Recovery Against U.S. Freight for Granoro
- Comment 3: Whether the Department Erred In Applying Quarterly Cost to Granoro
- Comment 4: Whether the Department Should Continue to Rely on Protein Content Based on the Nutritional Label
- Comment 5: Whether the Department Should Review All of Rummo's EP Entries During the POR
- Comment 6: Analysis of Targeted Dumping Allegation

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